

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 446 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 water management.
- 4 Page 11, between lines 17 and 18, begin a new paragraph and
- 5 insert:
- 6 "SECTION 8. IC 14-33-16.5 IS ADDED TO THE INDIANA
- 7 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
- 8 [EFFECTIVE UPON PASSAGE]:
- 9 **Chapter 16.5. Dissolution of Smaller District and Assumption**
- 10 **of Operations, Obligations, and Assets by Larger District**
- 11 **Sec. 1. This chapter applies to any two (2) conservancy districts**
- 12 **that:**
- 13 **(1) are contiguous; and**
- 14 **(2) share at least one (1) common purpose set forth in**
- 15 **IC 14-33-1-1.**
- 16 **Sec. 2. As used in this chapter:**
- 17 **(1) "freeholder" means an owner of real property, as**
- 18 **reflected in the real property tax records of the county**
- 19 **auditor;**
- 20 **(2) "larger district" means, of the two (2) districts referred**
- 21 **to in section 1 of this chapter, the one (1) that has the larger**
- 22 **number of freeholders; and**
- 23 **(3) "smaller district" means, of the two (2) districts referred**
- 24 **to in section 1 of this chapter, the one (1) that has the smaller**
- 25 **number of freeholders.**

1 **Sec. 3. (a) The freeholders of a smaller district may initiate**
2 **dissolution proceedings under this chapter by filing a petition with**
3 **the county auditor of the county in which most of the smaller**
4 **district's area is located. The petition must be signed by at least the**
5 **lesser of:**

6 **(1) fifty (50); or**

7 **(2) five percent (5%);**

8 **of the smaller district's freeholders.**

9 **(b) A petition under subsection (a) may be circulated and**
10 **presented in separate parts. All of the parts of the petition**
11 **constitute a single petition.**

12 **(c) The petitioning freeholders must sign the petition, showing:**

13 **(1) the name and address of each petitioner; and**

14 **(2) the date of the signature.**

15 **(d) A petition must state that the petitioners desire an election**
16 **on the question of whether:**

17 **(1) the smaller district will dissolve and becomes part of the**
18 **larger district; and**

19 **(2) the larger district will assume the smaller district's**
20 **operation, obligations, and assets.**

21 **(e) A person who presents a petition from the smaller district's**
22 **freeholders under this section to the county auditor must verify and**
23 **certify the signatures on the petition upon oath.**

24 **Sec. 4. (a) Not later than thirty (30) days after a petition is filed**
25 **with the county auditor under section 3 of this chapter, the county**
26 **auditor shall:**

27 **(1) prepare and certify a list of freeholders of the smaller**
28 **district;**

29 **(2) make the list available for inspection by any person; and**

30 **(3) determine and certify whether the petition:**

31 **(A) was signed by the number of freeholders required**
32 **under section 3(a) of this chapter; and**

33 **(B) otherwise meets the requirements of this chapter.**

34 **(b) A deficiency in the list of the smaller district's freeholders**
35 **or an omission of the name of a freeholder does not void the**
36 **election or the election's outcome.**

37 **(c) If the county auditor determines that a petition filed under**
38 **section 3 of this chapter meets the requirements of this chapter, the**
39 **auditor shall, not later than forty (40) days after receiving the**
40 **petition, forward a notice to the board of directors of the larger**
41 **district by personal delivery or by certified mail. The notice must:**

42 **(1) inform the larger district that a petition was filed under**
43 **section 3 of this chapter by the freeholders of the smaller**
44 **district; and**

45 **(2) ask if the larger district is willing and able to assume the**
46 **smaller district's operation, obligations, and assets if the**
47 **smaller district's freeholders vote to dissolve the smaller**
48 **district.**

49 **(d) Not later than thirty (30) days after receiving the notice**
50 **from the county auditor under subsection (c), the board of**
51 **directors of the larger district may pass a resolution stating that:**

(1) the larger district is willing and able to assume the smaller district's operation, obligations, and assets; and
 (2) upon becoming part of the larger district, the freeholders of the smaller district will:

(A) become full and equal freeholders of the larger district; and

(B) pay the same special benefits taxes and user charges generally charged by the larger district.

(e) If the board of directors of the larger district passes a timely resolution under subsection (d):

(1) the board of directors of the larger district must forward a true and accurate copy of the resolution to the county auditor by personal delivery or by certified mail not later than ten (10) business days after the board passes the resolution; and

(2) the board of directors of the smaller district must hold a dissolution and assumption election of the smaller district's freeholders under to this chapter.

(f) If the board of directors of the larger district:

(1) does not pass a timely resolution under subsection (d); or

(2) passes a timely resolution under subsection (d), but does not timely forward a copy of the resolution under subsection (e)(1);

the dissolution proceedings that began with the filing of a petition under section 3 of this chapter are ended.

Sec. 5. Not later than ten (10) days after the county auditor receives a resolution from the board of directors of the larger district under section 4 of this chapter, the county auditor shall, by personal delivery or by certified mail, notify the board of directors of the smaller district that the board of directors of the smaller district must hold the election referred to in section 4(e)(2) of this chapter.

Sec. 6. (a) Not later than ten (10) days after receipt of a notice under section 5 of this chapter, the board of directors of the smaller district shall fix the following:

(1) A convenient and suitable place for the smaller district's election.

(2) The date for the election that is at least sixty (60) days after the date on which the county auditor notifies the smaller district's board under section 5 of this chapter.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. If the number of freeholders in the smaller district is too great for balloting at a single voting place while allowing each freeholder a reasonable time to cast a ballot, the board shall arrange for the number of voting places necessary to accommodate the freeholders eligible to vote.

(c) Notice of the date, time, place, and purpose of the election must be given for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having

land in the smaller district, with the last publication:

(1) not less than fifteen (15) days; and

(2) not more than thirty (30) days;

before the date of the election.

(d) The board of directors of the smaller district shall also cause individual notice of the election to be given to all of the smaller district's freeholders by first class mail.

(e) The notice published under subsection (c) and the individual freeholder notice mailed under subsection (d) must be in the following form:

Notice of a Dissolution and Assumption Election

to the Freeholders of the _____

(insert smaller district) Conservancy District

1. You are a freeholder (i.e. a real property owner) of the _____ (insert smaller district) Conservancy District. As a freeholder, you are one of the owners of the _____ (insert smaller district) Conservancy District.

2. A legally required number of the freeholders of the _____ (insert smaller district) Conservancy District has filed a petition with the _____ (insert county name) County Auditor requesting that the _____ (insert smaller district) Conservancy District be dissolved, and that the operation, obligations, and assets of the _____ (insert smaller district) Conservancy District be assumed by the _____ (insert larger district) Conservancy District.

3. The _____ (insert larger district) Conservancy District is contiguous to, has the same purpose as, and has a greater number of freeholders than the _____ (insert smaller district) Conservancy District.

4. The Board of Directors of the _____ (insert larger district) Conservancy District has passed a resolution stating:

A. That the _____ (insert larger district) Conservancy District is willing to assume the operation, obligations, and assets of the _____ (insert smaller district) Conservancy District; and

B. That upon becoming part of the _____ (insert larger district) Conservancy District, the freeholders of the _____ (insert smaller district) Conservancy District will become full and equal freeholders of the _____ (insert larger district) Conservancy District and be subject to and pay the same special benefits taxes and user charges generally charged by the (insert larger district) Conservancy District.

5. An election of the freeholders of the (insert smaller district) Conservancy District is set for the day of _____, _____, from 9:00 a.m. to 9:00 p.m., at the following location(s): _____.

6. The question presented for the election is whether the _____ (insert smaller district) Conservancy District should be dissolved, and whether the _____ (insert

larger district) Conservancy District should assume the operations, obligations, and assets of the (insert smaller district) Conservancy District.

7. A majority of the votes cast at the election will determine the question of whether the _____ (insert smaller district) Conservancy District should be dissolved, and whether the _____ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the _____ (insert smaller district) Conservancy District.

8. As a freeholder of the _____ (insert smaller district) Conservancy District, you are entitled to and encouraged to vote at the election.

/ss/ Board of Directors, _____
(insert smaller district) Conservancy

District

(f) If the board of directors of the smaller district fails to hold the election as required by this chapter, the county auditor of the county in which the smaller district's petition was filed shall:

- (1) conduct the election as required by this chapter; and
- (2) bill the board of directors of the smaller district for the county auditor's costs incurred for the election.

(g) The board of directors of the smaller district shall promptly pay a bill submitted to the smaller district under subsection (f).

Sec. 7. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall prepare and furnish ballots in sufficient number in the following form:

"Shall the _____ (insert smaller district) Conservancy District be dissolved and its operations, obligations, and assets be assumed by the _____ (insert larger district) Conservancy District?

☐ Yes ☐ No"

Sec. 8. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall do the following:

- (1) Appoint an assistant secretary.
- (2) Provide a voting list at each voting place.

Sec. 9. (a) Before the voting begins under this chapter, the board of directors of the smaller district shall appoint three (3) freeholders of the district as clerks to conduct the dissolution and assumption election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

- (1) a clerk finds a freeholder's name is omitted from the list; and
- (2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

Sec. 10. (a) After an election is held under this chapter, the

assistant secretary of the smaller district shall do the following:

(1) Keep the ballots safe and secure until the end of the voting period.

(2) At the end of the voting period, present all ballots cast to the three (3) clerks.

(3) Record the election results in the records of the smaller district.

(4) Certify the results of the election to the county auditor and the circuit court having supervisory jurisdiction over the smaller district as promptly as possible.

(b) The clerks of the smaller district shall do the following:

(1) Count the ballots.

(2) Report the results of the election to the secretary in writing over the signature of each clerk.

Sec. 11. In an election held under this chapter, a majority of all votes cast by the freeholders of the smaller district determine the question of the dissolution of the smaller district and the larger district's assumption of the smaller district's operations, obligations, and assets.

Sec. 12. The costs of a smaller district's election held under this chapter shall be paid by the smaller district.

Sec. 13. (a) In an election held under this chapter, if a majority of the freeholders of the smaller district votes to dissolve the smaller district, not later than sixty (60) days after the election, as the final action of the board of directors of the smaller district, the board shall:

(1) make a full and final accounting to the circuit court having supervisory jurisdiction over the smaller district; and

(2) file all records of the smaller district with the court.

(b) If the smaller district's board of directors fails to timely comply with subsection (a), the circuit court having supervisory jurisdiction over the smaller district shall order the board to comply or suffer a finding of contempt of court.

(c) The larger district shall take custody and control of the smaller district's operations, obligations, and assets on the earlier of:

(1) the date the smaller district's board of directors complies with subsection (a)(1); or

(2) the sixtieth day after the election.

(d) The larger district is directly responsible for payment of the smaller district's bonds or notes outstanding upon the larger district taking custody and control of the smaller district's operations, obligations, and assets.

(e) When the smaller district's board of directors complies with subsection (a), the circuit court shall issue an order:

(1) dissolving the smaller district; and

(2) discharging the board of directors of the smaller district."

Renumber all SECTIONS consecutively.

(Reference is to ESB 446 as reprinted March 22, 2005.)

Representative WOLKINS

Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 446, begs leave to report that said bill has been amended as directed.

Representative WOLKINS